

its aspects, including design developments, operation, and cost records of contractors and subcontractors at such intervals as are deemed necessary by the Department to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system.

[43 FR 44853, Sept. 29, 1978, as amended at 45 FR 10794, Feb. 19, 1980]

§ 95.617 Software and ownership rights.

(a) *General.* The State or local government must include a clause in all procurement instruments that provides that the State or local government will have all ownership rights in software or modifications thereof and associated documentation designed, developed or installed with Federal financial participation under this subpart.

(b) *Federal license.* The Department reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal Government purposes, such software, modifications, and documentation.

(c) *Proprietary software.* Proprietary operating/vendor software packages (e.g., ADABAS or TOTAL) which are provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership provisions in paragraphs (a) and (b) of this section. FFP is not available for proprietary applications software developed specifically for the public assistance programs covered under this subpart.

§ 95.619 Use of ADP systems.

ADP systems designed, developed, or installed with FFP shall be used for a period of time specified in the advance planning document, unless the Department determines that a shorter period is justified.

§ 95.621 ADP reviews.

The Department will conduct periodic onsite surveys and reviews of State and local agency ADP methods and practices to determine the adequacy of such methods and practices and to assure that ADP equipment and services are utilized for the purposes

consistent with proper and efficient administration under the Act. Where practical, the Department will develop a mutually acceptable schedule between the Department and State or local agencies prior to conducting such surveys or reviews, which may include but are not limited to:

(a) *Pre-installation readiness.* A pre-installation survey including an onsite evaluation of the physical site and the agency's readiness to productively use the proposed ADP services, equipment or system when installed and operational.

(b) *Post-installation.* A review conducted after installation of ADP equipment or systems to assure that the objectives for which FFP was approved are being accomplished.

(c) *Utilization.* A continuing review of ADP facilities to determine whether or not the ADP equipment or services are being efficiently utilized in support of approved programs or projects.

(d) *Acquisitions not subject to prior approval.* Reviews will be conducted on an audit basis to assure that system and equipment acquisitions costing less than \$200,000 were made in accordance with 45 CFR part 74 and the conditions of this subpart and to determine the efficiency, economy and effectiveness of the equipment or system.

(e) *State Agency Maintenance of Service Agreements.* (1) The State agency will maintain a copy of each service agreement in its files for Federal review.

(2) A State agency that did not obtain prior approval of a service agreement, as required by § 95.611(b)(2) as it was in effect from December 28, 1978 (unless a State chose to exercise the option to make it effective as early as September 29, 1978) through January 19, 1987, is eligible for FFP claimed for services furnished by other State or local agencies under that agreement if:

(i) The State agency has a copy of it in its files for Federal review;

(ii) It meets the definition of a service agreement as it was defined in section 95.605 from December 28, 1978 through January 19, 1987;

(iii) The claim conforms to the timely claim provisions of 45 CFR part 95, subpart A; and